

an additional child, because the addition of the already adopted child(ren) to the applicant's household is a significant change in the household that should be assessed before the adoption of any additional child(ren);

(iii) The addition of other dependents or additional adult member(s) of the household to the family prior to the prospective child's immigration into the United States;

(iv) A change resulting because the applicant is seeking to adopt a handicapped or special needs child, if the home study did not already address the applicant's suitability as the adoptive parent of a child with the particular handicap or special need;

(v) A change to a different Convention country. This change requires the updated home study to address suitability under the requirements of the new Convention country;

(vi) A lapse of more than 6 months between the date the home study is completed and the date it is submitted to USCIS; or

(vii) A change to the child's proposed State of residence. The preadoption requirements of the new State must be complied with in the case of a child coming to the United States to be adopted.

(2) Any updated or amended home study must:

(i) Meet the requirements of this section;

(ii) Be accompanied by a copy of the home study that is being updated or amended, including all prior updates and amendments;

(iii) Include a statement from the preparer that he or she has reviewed the home study that is being updated or amended and is personally and fully aware of its contents; and

(iv) Address whether the home study preparer recommends approval of the proposed adoption and the reasons for the recommendation.

(3) If submission of an updated or amended home study becomes necessary before USCIS adjudicates the Form I-800A, the applicant may simply submit the updated or amended home study to the office that has jurisdiction over the Form I-800A.

(4) If it becomes necessary to file an updated or amended home study after

USCIS has approved the Form I-800A, the applicant must file a Form I-800A Supplement 3 with the filing fee specified in 8 CFR 103.7(b)(1) and the amended or updated home study. If USCIS determines that the amended or updated home study shows that the applicant remains suitable as the adoptive parent(s) of a Convention adoptee, USCIS will issue a new approval notice that will expire on the same date as the original approval. If the applicant also wants to have USCIS extend the approval period for the Form I-800A, the applicant must submit the updated or amended home study with an extension request under 8 CFR 204.312(e)(3), rather than under this paragraph (u) of this section.

(5) Each update must indicate that the home study preparer has updated the screening of the applicant and any additional adult member of the household under paragraphs (i) through (l) of this section, and must indicate the results of this updated screening.

§ 204.312 Adjudication of the Form I-800A.

(a) *USCIS action.* The USCIS officer must approve a Form I-800A if the officer finds, based on the evidence of record, that the applicant is eligible under 8 CFR 204.307(a) to file a Form I-800A and the USCIS officer is satisfied that the applicant is suitable as the adoptive parent of a child from the specified Convention country. If the applicant sought approval for more than one Convention country, the decision will specify each country for which the Form I-800A is approved, and will also specify whether the Form I-800A is denied with respect to any particular Convention country.

(b) *Evaluation of the home study.* In determining suitability to adopt, the USCIS officer will give considerable weight to the home study, but is not bound by it. Even if the home study is favorable, the USCIS officer must deny the Form I-800A if, on the basis of the evidence of record, the officer finds, for a specific and articulable reason, that the applicant has failed to establish that he or she is suitable as the adoptive parent of a child from the Convention country. The USCIS officer may

consult the accredited agency or temporarily accredited agency that approved the home study, the home study preparer, the applicant, the relevant State or local child welfare agency, or any appropriate licensed professional, as needed to clarify issues concerning whether the applicant is suitable as the adoptive parent of a Convention adoptee. If this consultation yields evidence that is adverse to the applicant, the USCIS officer may rely on the evidence only after complying with the provisions of 8 CFR 103.2(b)(16) relating to the applicant's right to review and rebut adverse information.

(c) *Denial of application.* (1) The USCIS officer will deny the Form I-800A if the officer finds that the applicant has failed to establish that the applicant is:

(i) Eligible under 8 CFR 204.307(a) to file Form I-800A; or

(ii) Suitable as the adoptive parent of a child from the Convention country.

(2) Before denying a Form I-800A, the USCIS officer will comply with 8 CFR 103.2(b)(16), if required to do so under that provision, and may issue a request for evidence or a notice of intent to deny under 8 CFR 103.2(b)(8).

(3) A denial will be in writing, giving the reason for the denial and notifying the applicant of the right to appeal, if any, as provided in 8 CFR 204.314.

(4) It is for the Central Authority of the other Convention country to determine how its own adoption requirements, as disclosed in the home study under 8 CFR 204.311(q), should be applied in a given case. For this reason, the fact that the applicant may be ineligible to adopt in the other Convention country under those requirements, will not warrant the denial of a Form I-800A, if USCIS finds that the applicant has otherwise established eligibility and suitability as the adoptive parent of a Convention adoptee.

(d) *Approval notice.* (1) If USCIS approves the Form I-800A, USCIS will notify the applicant in writing as well as the Department of State. The notice of approval will specify:

(i) The expiration date for the notice of approval, as determined under paragraph (e) of this section, and

(ii) The name(s) and marital status of the applicant; and

(iii) If the applicant is not married and not yet 25 years old, the applicant's date of birth.

(2) Once USCIS approves the Form I-800A, or extends the validity period for a prior approval under paragraph (e) of this section, any submission of the home study to the Central Authority of the country of the child's habitual residence must consist of the entire and complete text of the same home study and of any updates or amendments submitted to USCIS.

(e) *Duration or revocation of approval.*

(1) A notice of approval expires 15 months after the date on which USCIS received the FBI response on the applicant's, and any additional adult member of the household's, biometrics, unless approval is revoked. If USCIS received the responses on different days, the 15-month period begins on the earliest response date. The notice of approval will specify the expiration date. USCIS may extend the validity period for the approval of a Form I-800A only as provided in paragraph (e)(3) of this section.

(2) (i) The approval of a Form I-800A is automatically revoked if before the final decision on a Convention adoptee's application for admission with an immigrant visa or for adjustment of status:

(A) The marriage of the applicant terminates; or

(B) An unmarried applicant marries; or

(C) In the case of a married applicant, either spouse files with a USCIS or Department of State officer a written document withdrawing his or her signature on the Form I-800A.

(ii) This revocation is without prejudice to the filing of a new Form I-800A, with fee, accompanied by a new or amended home study, reflecting the change in marital status. If a Form I-800 had already been filed based on the approval of the prior Form I-800A, a new Form I-800 must also be filed with the new Form I-800A under this paragraph. The new Form I-800 will be adjudicated only if the new Form I-800A is approved. The new Form I-800 will not be subject to denial under 8 CFR 204.309(b)(1) or (2), unless the original Form I-800 would have been subject to denial under either of those provisions.

§ 204.313

8 CFR Ch. I (1–11 Edition)

(3)(i) If the 15-month validity period for a Form I-800A approval is about to expire, and the applicant has not filed a Form I-800, the applicant may file Form I-800A Supplement 3, with the filing fee under 8 CFR 103.7(b)(1), if required. The applicant may not file a Form I-800A Supplement 3 seeking extension of an approval notice more than 90 days before the expiration of the validity period for the Form I-800A approval, but must do so on or before the date on which the validity period expires. The applicant is not required to pay the Form I-800A Supplement 3 filing fee for the first request to extend the approval of a Form I-800A. If the applicant files a second or subsequent Form I-800A Supplement 3 to obtain a second or subsequent extension, however, the applicant must pay the Form I-800A Supplement 3 filing fee, as specified in 8 CFR 103.7(b), for the second, or any subsequent, Form I-800A Supplement 3 that is filed to obtain a second or subsequent extension. Any Form I-800A Supplement 3 that is filed to obtain an extension of the approval of a Form I-800A must be accompanied by:

(A) A statement, signed by the applicant under penalty of perjury, detailing any changes to the answers given to the questions on the original Form I-800A;

(B) An updated or amended home study as required under 8 CFR 204.311(u); and

(C) A photocopy of the Form I-800A approval notice.

(ii) Upon receipt of the Form I-800A Supplement 3, USCIS will arrange for the collection of the biometrics of the applicant and of each additional adult member of the applicant's household.

(iii) If USCIS continues to be satisfied that the applicant remains suitable as the adoptive parent of a Convention adoptee, USCIS will extend the approval of the Form I-800A to a date not more than 15 months after the date on which USCIS received the new biometric responses. If new responses are received on different dates, the new 15-month period begins on the earliest response date. The new notice of approval will specify the new expiration date.

(iv) There is no limit to the number of extensions that may be requested

and granted under this section, so long as each request is supported by an updated or amended home study that continues to recommend approval of the applicant for intercountry adoption and USCIS continues to find that the applicant remain suitable as the adoptive parent(s) of a Convention adoptee.

(4) In addition to the automatic revocation provided for in paragraph (e)(2) of this section, the approval of a Form I-800A may be revoked pursuant to 8 CFR 205.1 or 205.2.

§ 204.313 Filing and adjudication of a Form I-800.

(a) *When to file.* Once a Form I-800A has been approved and the Central Authority has proposed placing a child for adoption by the petitioner, the petitioner may file the Form I-800. The petitioner must complete the Form I-800 in accordance with the instructions that accompany the Form I-800, and must sign the Form I-800 personally. In the case of a married petitioner, one spouse cannot sign for the other, even under a power of attorney or similar agency arrangement. The petitioner may then file the Form I-800 with the stateside or overseas USCIS office or the visa issuing post that has jurisdiction under 8 CFR 204.308(b) to adjudicate the Form I-800, together with the evidence specified in this section and the filing fee specified in 8 CFR 103.7(b)(1), if more than one Form I-800 is filed for children who are not siblings.

(b) *What to include on the Form.* (1) The petitioner must specify on the Form I-800 either that:

(i) The child will seek an immigrant visa, if the Form I-800 is approved, because the child will reside in the United States with the petitioner (in the case of a married petitioner, if only one spouse is a United States citizen, with that spouse) after the child's admission to the United States on the basis of the proposed adoption; or

(ii) The child will seek a non-immigrant visa, in order to travel to the United States to obtain naturalization under section 322 of the Act, because the petitioner intends to complete the adoption abroad and the petitioner and the child will continue to reside abroad immediately following